

1 **Project Agreement**

2 **General Terms**

3
4 **DEFINITIONS**

5
6 **The term "Interior" as used herein shall mean the agency of the federal government which**
7 **is acting as the delegate of the United States Secretary of the Interior to administer grant programs**
8 **authorized by the National Historic Preservation Act of 1966 as amended.**
9

10 **The term "State" as used herein shall mean the California Office of Historic Preservation of**
11 **the State of California.**
12

13 **The term "Participant" as used herein shall mean the recipient of subgranted (q.v.) federal**
14 **funds named as Participant on the cover page of this agreement.**
15

16 **The term "Subgrant" as used herein shall mean the award of federal funds, already**
17 **granted to the State, to the agency, institution, organization, other legal entity, or individual by the**
18 **State.**
19

20 **The term "Project" as used herein shall mean the work described in the "Project Scope" of**
21 **this agreement performed during the time period set forth as the "Project Period" on the cover**
22 **page of this agreement.**
23

24 **The term "Secretary of the Interior's Standards" as used herein shall mean the "Secretary**
25 **of the Interior's Standards and Guidelines for Archeology and Historic Preservation", including**
26 **standards for planning, identification, evaluation, registration, historical documentation,**
27 **architectural and engineering documentation, archaeological documentation, historic preservation**
28 **projects, and professional qualifications, as published in the Federal Register, September 29, 1983**
29 **(Vol. 48, No. 190), pp. 44716 et seq.**
30
31
32

GENERAL

This agreement is entered under the provisions of the National Historic Preservation Act of 1966, 16 USCA Section 470 et seq., and regulations enacted pursuant thereto, 36 CFR Part 60.

In addition to the terms detailed in this subgrant agreement, all federal requirements governing grants (Office of Management and Budget Circulars A-21, A-87, or A-122, A-102, A-110, A-128, or A-133) are applicable. The State and the Participant shall comply with, and shall not interpret any part of this agreement to be in conflict with, all applicable provisions of those circulars in carrying out this agreement.

The Participant agrees to complete the project in accordance with this agreement.

The Participant shall perform all work and supply material necessary to complete the project described in the paragraph entitled "Project Scope:" on p.1 of this agreement within the period specified. Failure of the Participant to render satisfactory progress or to complete this or any other project which is subject to federal assistance under this program to the satisfaction of the State may be cause for suspension of all obligations of Interior and the State under this agreement.

However, failure of the Participant to comply with the terms of this agreement shall not be cause for the suspension of all such obligations if, in the judgement of Interior, such failure was due to no fault of the Participant. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement.

This agreement is executed in counterparts, each of which shall be deemed a duplicate original.

This agreement may be amended only by agreement in writing executed by both of the parties hereto.

The Participant may upon written notice to the State unilaterally terminate this agreement at any time prior to the commencement of the project. The State may upon written notice to the Participant unilaterally terminate this agreement at any time prior to the commencement of the

1 project. The project shall be deemed commenced when the Participant makes any expenditure or
2 incurs any obligation with respect to the project.

3
4 After the project commences, the Participant and the State may terminate the agreement by
5 mutual consent, in which case they shall negotiate termination conditions.

6
7 If the Participant materially fails to comply with the terms of the agreement, the State shall
8 provide written notice of non-compliance, which states the nature of the deficiency. If the
9 Participant is still not in compliance thirty (30) days after receipt of the notice, the State may in
10 addition to other remedies: (1) withhold cash payments until the deficiency is removed; (2)
11 administer the project itself as it deems necessary to fulfill the requirement of the Interior, in which
12 case the Participant agrees to reimburse the State for any costs or expenses incurred thereby; (3)
13 terminate the agreement and make no further payments hereunder; (4) disallow costs; and (5)
14 disqualify the Participant from further subgrants.

15
16 The Participant hereby waives all claims and recourse against the State including the right
17 to contribution for loss or damage to persons or property arising from, growing out of, or in any
18 way connected with or incident to this agreement, except claims arising from the concurrent or sole
19 negligence of the State, its officers, agents, and employees. The Participant shall indemnify the
20 State and its officers, agents, and employees against and hold the same free and harmless from any
21 and all claims, demands, damages, losses, costs, and/or expenses of liability due to, or arising out of,
22 either in whole or in part, whether directly or indirectly, the organization, development,
23 construction, operation, or maintenance of the project. Participant shall waive and indemnify State
24 only in proportion to and to the extent that such claims, demands, damages, losses, costs, and/or
25 expenses of indemnification are caused by or result from the negligent or intentional acts or
26 omission of Participant, its officers, agents, or employees.

27
28 The State and the Participant shall ensure that the following conflict of interest provisions
29 are enforced:

30
31 a) No official or employee of the State or the Participant who is authorized in his or
32 her capacity to negotiate, make, or approve, or to take part in such decisions regarding a

1 contract or subcontract in connection with the project shall have any financial or other
2 personal interest in any such contract or subcontract;

3
4 (b) No person performing services for the State or the Participant in connection
5 with this project shall have a financial or other personal interest other than his or her
6 employment or retention by the State or the Participant, in any contract or subcontract in
7 connection with this project;

8
9 (c) No member or delegate to Congress shall be admitted to any share or part of this
10 agreement, or to any benefit to arise hereupon, unless such benefit shall be in the form of an
11 agreement made to a corporation for its general benefit.
12

13 **PROJECT EXECUTION**

14
15 The Participant shall carry out its work in accordance with the Secretary's Standards
16 named in the "Definitions Section" of this agreement.
17

18 If the project scope requires research in history, architectural history, or archeology, the
19 Participant shall ensure that the principal investigator meets the applicable Secretary of the
20 Interior's professional qualifications standards. If the project scope requires architectural plans,
21 the Participant shall ensure that the architect producing those plans meets the applicable Secretary
22 of the Interior's professional qualifications standards. If the project scope requires an expert
23 practitioner in another field, the Participant shall ensure that such expert meets standards of
24 education and experience similar to those of the Secretary of the Interior's professional
25 qualifications standards.
26

27 After selection of an employee or contractor to perform professional work outlined in the
28 previous paragraph, but before making any financial commitment to that person, the Participant
29 shall submit the person's resume to the State for review. The State shall either approve or
30 disapprove use of the person on the project within twenty (20) working days after receipt of the
31 resume. The Participant may consider failure of the State to respond within the period to
32 constitute approval.

1 The Participant shall commence work on the project no later than thirty (30) days after the
2 Participant receives from the State a fully executed duplicate original of this agreement.

3
4 When requested to do so by the State, the Participant shall make available to the State draft
5 reports, studies, plans, drawings, or other preliminary documents prepared during the project.
6 The Participants shall permit periodic site visits by the State to ensure that work is progressing on
7 scheduled and according to applicable instructions and standards.

8
9 As outlined on the cover form of this agreement, or date approved by the State, but no later
10 than at the end of the project period, the Participant shall furnish to the State all final work
11 products mentioned in the project scope and elsewhere in this agreement.

12
13 Participant shall submit progress reports and interim work products on the dates indicated
14 on the cover page of this agreement. Progress reports shall be in such form and contain such
15 information as the State instructs.

16
17 State shall not be obligated to provide federal funds for work products that, in the opinion
18 of the State, do not conform to the terms of this agreement or to the applicable Secretary of the
19 Interior's Standards.

20
21 As outlined, but no later than the end of the project period, the Participant shall furnish to
22 the State a final performance report, acceptable to the State, which compares actual
23 accomplishments to planned objectives and, if appropriate, gives reasons that the objectives were
24 not met as planned. The State shall provide further instructions for form the form and content of
25 the final report.

26 27 **FINANCIAL ADMINISTRATION**

28
29 The Participant shall use a financial management system that: permits the preparation of
30 financial reports required herein, permits the preparation of financial reports required herein,
31 provides an accounting of funds expended on the project, and follows the standards set forth by the
32 aforementioned Office of Management and Budget Circulars. The Participant shall expend funds
only on allowable costs as set forth in the budget established in the approved project notification.

1 Unless another percentage is indicated in the Project Funding section of the agreement, the
2 Participant shall pay for and furnish not less than 40 percent of the actual project costs, which shall
3 constitute its matching share. Non-monetary contribution may constitute part or all of the
4 Participant's match. Valuation of such contribution shall be set forth by the State.

5
6 **Determination of Value of Goods and Services:** Goods in the form of equipment, whether
7 owned, purchased, leased, or donated, will be valued on a use basis of actual costs of operation or of
8 purchase or lease or prevailing costs of goods if donated. Residual market value of purchased
9 equipment shall be credited to project costs upon completion. Goods in the form of supplies and
10 material will be valued at actual direct costs to Participant or, if donated, according to the
11 prevailing costs in the marketplace. Services will be valued in the actual amounts of salaries, wages,
12 and direct overhead costs expended on the project.

13
14 **Volunteer services** will be valued for contribution purposes at the rates paid for similar
15 technical skills and work in other activities of State. Specific procedures for the Participant in
16 establishing the value of in-kind contributions from non-Federal third parties are set forth below:

17
18 **Valuation of Volunteer Services:** Volunteer services may be furnished by professional and
19 technical personnel, consultants, and other skilled and unskilled labor. Volunteered service maybe
20 counted as cost sharing or matching if the service is an integral and necessary part of an approved
21 program.

22
23 **Rates for Volunteer Services:** Rates for volunteers should be consistent with those paid for
24 similar work in other activities of State and local government. In those instances in which the
25 required skills are not found in the Participant's organization, rates should be consistent with those
26 paid for similar work in the 15 labor market in which the grantee competes for the kind of services
27 involved. Volunteers with no historic preservation education or experience may claim only the
28 minimum wage rate.

29
30 **Volunteers Employed by Other Organizations:** When an employer, other than the Grantee,
31 furnishes the services of an employee, these services shall be valued at the employee's regular rate
32 of any (exclusive of fringe benefits and overhead costs), provided these services are in the same skill

1 for which the employee is normally paid. This rate shall not exceed the maximum daily rate of
2 compensation for a GS-18 position in the federal civil service, as established by law.

3
4 The State shall not pay federal funds hereunder if the Participant has used financial
5 assistance under any other federal program or activity (not including federal revenue sharing
6 funds, community block grants, and any other federal funds allowable as match) as a match on the
7 project.

8 9 **BILLING**

10
11 Taking into account a four-to-six-week delay between the time a payment request is
12 submitted to the State and the time the State provides the requested federal funds, the Participant
13 shall submit its payment requests so as to minimize the time elapsing between receipt and
14 disbursement of funds.

15
16 The Participant shall have sufficient working capital to ensure that the project progresses
17 on schedule even though payments from the State are unexpectedly delayed.

18
19 When seeking reimbursements, the Participant shall base its billings upon financial records
20 for both the federal and nonfederal shares of project costs which are supported by appropriate
21 documentation. All reimbursement requests shall be accompanied by copies of timesheets,
22 cancelled checks, receipts, etc., for State's verification before payment.

23
24 The Participant shall submit billings during the project period for this agreement. The
25 final billing statement with documentation sufficient for audit dated prior to end of the contract
26 period, shall be submitted with the Final Report as described on p.1 of this agreement.

27
28 Participant may also submit supplemental billing statements during the project period with
29 progress reports but must include an itemization of expenditures or receipts or timesheets of work
30 completed.

31
32 The Participant shall submit billings on the billing statement form (DPR 417) prescribed by
the State. The State need not make payment on billings submitted in other formats. The

Participant shall submit billings in quadruplicate, each with an original signature, to: Office of Historic Preservation, Department of Parks and Recreation, ATTN: Grants Officer, P.O. Box 942896, Sacramento, California 94296-0001. The Participant shall ensure that the billing form bears the signature of the Participant's project representative.

After reviewing each billing for accuracy and appropriateness, the State shall pay the least of the following: (a) sixty percent of the amount of the total project costs incurred during the billing period shown on the billing; (b) the amount of cash outlays made during the billing period as shown on the billing; and (c) the amount of federal grant funds available for support of the project as shown in the project funding section of this agreement.

The State will not reimburse more than ninety (90%) percent of allocated grant funds until the State has verified completion of the project, and if necessary, until an audit approval has been received by the State for the Audits Section of the Department of Parks and Recreation.

CHANGES

The Participant and State understand that the Participant is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make program changes to the project.

Notwithstanding the provisions of the foregoing paragraph, the Participant shall obtain from the State prior approval for: (a) any substantive revision of the scope, objectives, or budget of the project; (b) extension of the need for federal funds; (c) changes in key persons, including all persons filling positions for which the incumbent must meet the Secretary of the Interior's professional qualifications standards; (d) additional contracts or hiring to perform activities that are central to the project; and (e) new or revised performance or reporting milestones.

The Participant shall make requests for such changes in writing. The State shall approve or disapprove in writing. If appropriate, the Participant and the State shall amend this agreement to include approved changes.

REPORTS AND RECORDS

Records of personal services contributions, whether paid or volunteer, shall include timesheets bearing the signature of the person whose time is contributed and of the supervisor verifying that the record is accurate. "Personnel Activity Reports" as specified in OMB Circular A-21 and its successors shall be acceptable as documentation of time spent on this project by "professional" and "professorial" staff. Volunteer records shall show the actual hours worked, the specific duties performed, and the basis for determining the rate of contribution. These records shall be included with the audit material. The Participant shall keep such records, maps, and reports as State and Interior prescribe, including records that fully disclose the dispositions by the Participant of federal grant funds, total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

During its regular office hours, the Participant shall make financial records available to the State, Interior, the Comptroller General of the United States, or any of their duly authorized representatives for the purpose of inspection, copying, and audit. The Participant shall provide copies of such records to the State if requested to do so by the State and shall retain such records for three years following project termination. Project records shall be retained by Participant for three years following project completion or longer until notification that the Federal audit covering the project has been closed.

If a local government, the Participant shall comply with the Single Audit Act of 1984, and furnish the State with a copy of the audit report within thirty (30) days after issuance. If a university or nonprofit organization, the Participant shall comply with the audit requirements of OMB Circular A-133.

The Participant shall reimburse the State for costs disallowed during an audit.

PUBLICATIONS

In regard to all copyrightable material, which are produced as a deliverable under this project, including but not limited to books reports, plans, photographs, drawings, films, recordings,

videotapes, and computer programs, which are produced as part or result of this project, the Participant understands and shall ensure that all of the Participant's affected officers, employees, agents, contractors, and volunteer workers also understand that: (a) other such material may not be copyrighted without prior review from the State; (b) the authors of all such material, whether copyrighted or not, award to the State and federal governments, and to their officers, agents, and employees acting within the scope of their official duties, as a condition of subgrant assistance to the Participant, a royalty-free, nonexclusive, irrevocable license throughout the world for governmental purposes to disclose, publish, translate, reproduce, and use such materials.

Any publications (including books, brochures, films, videotapes, and other materials designed for public distribution) resulting from the project shall contain the following statements:

"The activity which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, Department of the Interior, through the California Office of Historic Preservation. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior or the California Office of Historic Preservation, nor does mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the California Office of Historic Preservation."

'Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally assisted programs on the basis of race, color, sex, age, disability, or national origin. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to:

Director, Equal Opportunity Program
U.S. Department of the Interior
National Park Service
P.O. Box 37127
Washington, D.C. 20013-7127

1 The Participant shall provide six copies of all publications to the State no later than at the
2 end of the project period.

3
4 **OTHER REQUIREMENTS**

5
6 The Participant shall not spend the federal funds provided under this agreement except in
7 conformance to the provisions of the following sentence: "No part of the money appropriated by
8 any enactment of Congress shall, in the absence of express authorization by Congress, be used
9 directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter,
10 printed or written matter, or other device, intended or designed to influence in any manner a
11 Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by
12 Congress, whether before or after the introduction of any bill or resolution proposing such
13 legislation or appropriation; but this shall not prevent officers or employees of the United States or
14 of its departments or agencies from communicating to Members of Congress on the request of any
15 Member of Congress, through proper official channels, requests of legislation or appropriations
16 which they deem necessary for the efficient conduct of the public business."

17
18 The Participant shall not discriminate against any person on the basis of race, color, sex,
19 age, or national origin in the execution of this agreement, and shall comply with the terms and
20 intent of Title VI of the Civil Rights Act of 1964, P.L. 88-352 (1964), and of the regulations
21 promulgated pursuant to such act by the Secretary of the Interior and contained in 43 CFR 17.

22
23 The Participant shall, in complying with Section 504 of the Rehabilitation Act of 1973 (P.O.
24 93-112, as amended, 29 USC 794 et seq.) ensure that no qualified handicapped individual is solely,
25 by reason of handicap, excluded from participation in, denied the benefits of, or subjected to
26 discrimination under the project that is the subject of this agreement.

27
28 No officer or employee of the Participant whose principal employment is in connection with
29 any activity which is financed in whole or in part pursuant to this agreement shall take part in any
30 of the political activity proscribed in the Hatch Political Activity Act, 5 USC 118K, with the
31 exclusions therein enumerated.
32

SEVERABILITY

The Contract Documents shall be governed by the laws of the State of California. If any provision of the contract Documents, including without limitation these General Conditions shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any other way be affected or impaired.